

A BILL INCORPORATING ADDITIONAL BASES FOR MAKING ASSESSMENTS UNDER
THE CHARTER OF THE CITY OF DURHAM SEC. 77(14) IN THE CASE OF BOTH
PETITIONED AND NON-PETITIONED ASSESSMENTS

Whereas, Sec. 77(14) of the Charter of the City of Durham (“Charter”) currently includes limited bases for making assessments against properties benefitting from improvements;

Whereas, the limited bases for making assessments currently available under Charter Sec. 77(14) have the potential to allocate assessments to properties in a manner that is disproportionate to the benefits bestowed by the improvements to the properties;

Whereas, by incorporating additional bases for making assessments into Charter Sec. 77(14), the Durham City Council will be able to apportion both petitioned and non-petitioned assessments among the benefitted properties in a manner that is more reflective of the benefits bestowed on the benefitted properties;

The General Assembly of North Carolina enacts:

Section 1. Sec. 77(14) of the Charter of the City of Durham reads as rewritten:

(14)

Having determined such total cost, the city council shall thereupon make a preliminary assessment as hereinafter set out in this section. Such preliminary assessment shall, however, be advisory only, and shall be subject to the action of the council thereon as hereinafter set out in subsection (17) of this section. The preliminary assessment shall be made on the basis or bases hereinafter set out in this subsection for the classes of improvements indicated; provided, that if the petition, or the resolution, in those cases where the improvement was ordered made without petition, specified that there should be specially assessed against the ~~abutting~~ benefited property a smaller proportion of the cost of any improvement than is hereinafter specified in this section, then there shall be assessed against the ~~abutting~~ benefited property only such proportion of the cost of the improvement as was specified in the petition or in the resolution.

(a)

Street paving. The total cost of any street paving improvement, exclusive of so much of the cost as is incurred at street intersections and the share of street railways or railroads, shall be specially assessed against the lots and parcels of land abutting directly on the street paved, according to the extent of their respective frontages thereon, by an equal rate per foot of such frontage. The cost of that part of the paving required to be borne by a street railway or railroad, which paving is done by the city after default by

the street railway [or railroad] in making the same as hereinbefore provided in this section, or which is done by the city by contract with the railway or railroad as provided in subsection (12) of this section, shall be assessed against the street railway or railroad, and the assessment shall be a lien on all of the franchises and property of the street railway or railroad company, and may be collected by sale of such property and franchises as is provided in subsection (23) of this section; provided, further, that in case of a corner lot, used as a single lot, the council may provide by ordinance for the city to bear a part of the cost of paving in accordance with the following formula, the amounts or distances therein shown being maximum amounts or distances which may be reduced by the ordinance:

(i)

In the event that neither of the streets abutting a corner lot, used as a single lot, has ever been paved, such lot shall be exempt from assessment for the paving improvement alongside of such lot to the extent of 20 percent of the first 150 feet thereof or 30 feet, whichever is less. Thereafter, upon the paving of the intersecting street on which such lot abuts, such lot shall be exempt from assessment for the paving of the street to the extent of 50 percent of the frontage on such street or 30 feet, whichever is less.

(ii)

In the event that the street alongside of a corner lot, used as a single lot, is paved and the intersecting street is to be paved, such lot shall be exempt from assessment for the paving of the intersecting street to the extent of 50 percent of the frontage thereon or 30 feet, whichever is less.

(iii)

In the event a street in front of a corner lot, used as a single lot, has been paved and the street alongside of such lot is to be paved, the lot shall be exempt from assessment for the paving improvement alongside of such lot to the extent of 40 percent of the frontage on such street or 60 feet, whichever is less.

The exemption herein provided shall apply only in areas zoned for residential use or for apartments, and such portion of the cost of construction as would otherwise be assessed against such corner lot shall be borne by the city.

(b)

Sidewalks. The total cost of constructing or reconstructing sidewalks shall be assessed against the lots and parcels of land abutting on that side of the

street upon which the improvement is made, according to their respective frontages thereon by an equal rate per foot of such frontage, the lots within a block being deemed to abut upon a sidewalk although the latter extends beyond the lots to the curbline of an intersecting street; provided, further, that in case of a corner lot, used as a single lot, the council may provide by ordinance for the city to bear a part of the cost of sidewalk improvements in accordance with the following formula, the amounts or distances therein shown being maximum amounts or distances which may be reduced by the ordinance:

(i)

In the event that neither of the streets abutting a corner lot, used as a single lot, has sidewalks, such lot shall be exempt from assessment for the sidewalk improvement alongside of such lot to the extent of 20 percent of the first 150 feet thereof or 30 feet, whichever is less. Thereafter, upon the construction of sidewalks on the intersecting street, on which such lot abuts, such lot shall be exempt from assessment for the sidewalk improvement on the street to the extent of 50 percent of the frontage on such street or 30 feet, whichever is less.

(ii)

In the event that the street alongside of a corner lot, used as a single lot, has sidewalks and sidewalks are constructed on the intersecting street, such lot shall be exempt from assessment for the sidewalks on the intersecting street to the extent of 50 percent of the frontage thereon or 30 feet, whichever is less.

(iii)

In the event a street in front of a corner lot, used as a single lot, has sidewalks and sidewalks are to be constructed on the intersecting street, the lot shall be exempt from assessment for the sidewalk improvement alongside of such lot to the extent of 40 percent of the frontage thereon or 60 feet, whichever is less.

The exemptions herein provided shall apply only in areas zoned for residential use or for apartments, and such portion of the cost of construction as would otherwise be assessed against such corner lot shall be borne by the City.

(c)

Water mains and sewers. In the case of water mains and storm and sanitary sewers, the cost of not exceeding an 8 inch water or sanitary sewer main and of not exceeding a 30 inch storm sewer main and of such

portion of the mains as lie within the limits of the street or streets, or parts thereof, to be improved as provided in the petition or resolution ordering the same, shall be assessed against the abutting property. Such cost shall be assessed against the lots and parcels of land abutting on the street or streets, or parts thereof according to their respective frontages thereon (i.e., the entire frontage benefited by the water or sanitary sewer project) by an equal rate per foot of such frontage; provided, that in case of a corner lot, used as a single lot, no assessment shall be made against the long side of the lot abutting on the intersecting streets for any part of the frontage of such long[er] side of the lot except that portion in excess of 200 feet if the lot is in a residential section of the city, or in excess of 100 feet if the lot is in a business section of the city, and in such case the portion of the cost as would otherwise be assessed against the lot shall be borne by the city; provided further, that if a water or sanitary sewer main in excess of 8 inches in size or a storm sewer main in excess of 30 inches in size is laid in the portion of the street or streets, then the cost of the water or sanitary sewer main in excess of the cost of an 8 inch main and the cost of the storm sewer main in excess of a 30 inch main shall be borne by the city, provided further, that if the resolution ordered the construction of any septic tank or disposal plant, no part of the cost of the same shall be specially assessed; provided further, that if the resolution ordered the construction of any pumping station, force main or sanitary sewer outfall, the costs thereof may be assessed against the lots and parcels of land abutting on the street or streets, or parts thereof, according to their respective frontages thereon (i.e., the entire frontage benefitted by such pumping station, force main or sanitary sewer outfall) by an equal rate per front foot of such frontage; provided, however, in the case of a corner lot, used as a single lot, where there is a sewer already laid on the intersecting street on which the lot abuts and by which the lot is or can be served, no assessment shall be made against the lot for the costs of any pumping station, force main or sanitary sewer outfall incident to the second sewer for any part of the frontage of the lot except that portion in excess of 200 feet if the lot is in a residential section, or in excess of 100 feet if the lot is in a business section, and in such case the portion of the cost as would otherwise be assessed against the lot shall be borne by the city. Nothing contained herein shall be construed to limit the right of the city to contract with any property owner or owners for the construction of any pumping station, outfall, septic tank or disposal plant or for the construction of water mains or storm or sanitary sewers and for the assessment of the cost thereof according to the terms of such contract.

(d)

Water and sewer laterals. The entire cost of each water and sewer lateral required to be laid by the owner of the property for or in connection with which such lateral is laid, but laid by the city after default by the property owner in making the same as hereinbefore provided, shall be specially charged against the particular lot or parcel of land for or in connection with which it was made.

(e)

Water mains and sewers and laterals; flat rate assessment. In lieu of assessing each water and sanitary sewer improvement project on the basis of the cost of that particular project, the city council shall have authority to establish flat rates per frontage foot for the assessment of property abutting water and sewer improvement projects, based on the average cost of constructing 8 inch water mains and 8 inch sanitary sewer mains in the city, and shall also have authority to establish flat rates for the assessment of property abutting the installation of water and sanitary sewer laterals, based on the average cost of installing such laterals in the city. The Council may then assess property abutting water and sanitary sewer improvement projects on the basis of the flat rates so established, subject to the right of any nonpetitioning property owner to have the assessment against his property adjusted as provided by law upon a showing that his property has not been benefitted to the extent of the assessment.

(f)

Grass plots. The entire cost of grading or otherwise improving, or of planting, the grass plots in any street or part thereof, shall be assessed against the lots and parcels of land abutting on the street or part thereof wherein or whereon such improvements are made by an equal rate per front foot of such frontage; provided, that this subsection shall be construed to mean that when a grass plot in any street is graded or planted or otherwise improved, the cost thereof shall be assessed against all of the property abutting on the street within the block where such grass plot is located.

(g)

Lighting improvements. The cost of any lighting improvement, such cost being determined as provided in subsection (13) of this section, shall be specially assessed against the lots and parcels of land abutting directly on the street or streets, or part thereof, where such improvement is made, according to their respective frontage thereon by an equal rate per foot of such frontage.

(h)

Waterfront improvements. The cost of any waterfront improvement shall be specially assessed against the lots and parcels of land abutting on the improvement according to their respective frontages thereon by an equal rate per foot of such frontage.

(i)

In addition to the bases for making assessments for the cost of improvements specified above in paragraphs (a-h), city council may alternatively, or in conjunction, make assessments on the following bases:

1. The area of land served, or subject to being served, by the improvement, at an equal rate per unit of area; or
2. The value added to the land served by the improvement, or subject to being served by it, being the difference between the appraised value of the land without improvements as shown on the tax records of the county, and the appraised value of the land with improvements according to the appraisal standards and rules adopted by the county at its last revaluation, at an equal rate per dollar of value added; or
3. The number of lots served, or subject to being served, where the project involves extension of an existing system to a residential or commercial subdivision, at an equal rate per lot; or
4. A combination of two or more of these alternative bases, which may also be combined with the specific assessment basis listed above in Sections 77(14)(a) – (h) for each class of improvement.

Whenever the basis selected for assessment is either area or value added, the city council may provide for the laying out of benefit zones according to the distance of benefited property from the improvement being undertaken, and may establish differing rates of assessment to apply uniformly throughout each benefit zone.

For each improvement, the city council shall endeavor to establish an assessment method from among the bases set out in this section which will most accurately assess each lot or parcel of land according to the benefit conferred upon it by the improvement.

Section 2. This act only applies to the City of Durham. This act is effective when it becomes law.

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